

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH**

STATE OF IDAHO,	)	
	)	Case No. CR29-22-2805
Plaintiff,	)	
	)	<b>ORDER ON DEFENDANT’S</b>
vs.	)	<b>MOTION TO COMPEL DISCOVERY</b>
	)	
BRYAN C. KOHBERGER,	)	
	)	
Defendant.	)	
_____	)	

On May 4, 2023, Defendant Bryan C. Kohberger (“Kohberger”) filed a *Motion to Compel Discovery* stemming from *Defendant’s 2<sup>nd</sup> Supplemental Request for Discovery* filed on March 24, 2023. Oral argument on the Motion was heard on June 27, 2023. Kohberger was represented by Anne Taylor and Jay Logsdon, Kootenai County Public Defender’s Officer, and Elisa Massoth. The State was represented by William Thompson, Jr., and Ashley Jennings, Latah County Prosecutor’s Office, and Ingrid Batey and Jeff Nye, Office of the Attorney General.

At the outset of the hearing, the parties informed the Court that they had reached agreements on all issues except Request 160. Request 160 asks the State to provide to Defendant training records of three specific law enforcement officers.

Idaho Criminal Rule 16(b)(4) states that papers and documents that are “material to the preparation of the defense” that are in the possession, custody, or control of the prosecuting attorney are discoverable. Additionally, Rule 16(b)(10) allows the court to order material and

information be made available to a defendant where the defendant shows “substantial need in the preparation of the defendant’s case for additional material or information not otherwise covered by [Rule 16], and that the defendant is unable without undue hardship to obtain the substantial equivalent by other means.”

During oral argument, the defense argued that it needs the training records of the three specific officers identified in their request to understand the processes and methods the officers utilize. Specifically, the defense wants to see what training these officers have received in interviewing witnesses and collecting and evaluating evidence.

The defense argued that the three officers identified each played a critical role in the investigation of this case. One officer interviewed witnesses at the scene of the crime and worked on the search for a specific car of interest. The second officer interviewed key witnesses expected to testify at trial. The defense expects to subpoena this officer for trial. Finally, the third officer conducted multiple interviews of key witnesses after Kohberger was arrested, attended the victims’ autopsies, and made decisions about what tips provided to law enforcement warranted further investigation.

The State argued that the three officers identified are not material to the State’s case and will not be called at trial. Further, the State argued that the defense had not shown a substantial need for the information requested.

In *State v. Cohagan*, 162 Idaho 717, 725, 404 P.3d 659, 667 (2017), the Idaho Supreme Court, in applying the attenuation doctrine, discussed how “the training that law enforcement officers receive regarding the law of search and seizure should play a role in evaluating the flagrancy of their behavior.” Similarly, “courts have required the government to disclose relevant canine training and certification records” to allow defendants to assess the canine’s reliability

and effectively cross-examine the dog's handler. *See United States v. Wright*, No. 2:08-CR-5-02, 2008 WL 8797841, at \*3 (D. Vt. Nov. 3, 2008) (citing *United States v. Cedano-Arellano*, 332 F.3d 568, 571 (9th Cir. 2003)). By way of this Court's own experience, when testifying at pre-trial hearings or a trial, officers often based their testimony on their "training and experience."

Here, the three officers' training records requested by the defense are "material to the preparation of the defense" and Kohberger has established a "substantial need" for the material in the preparation of his case. First, the defense adequately articulated the role each of these officers played in interviewing witnesses and finding and collecting potential evidence. Second, the training records of these officers are potentially relevant to a suppression issue, like in *Cohagan*, or to challenge the credibility of the officers and the reliability of their methods similar to the training records of canine officers. Other potential uses for the training records include to help prepare the defense for examination or cross-examination of the officers at trial, or to help establish or challenge a foundation for the admissibility of evidence gathered by those officers at trial.

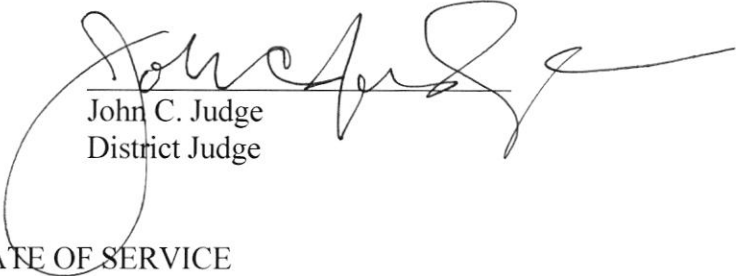
While generally, "all personnel records of a current or former public official" are exempt from disclosure under the Public Records Act, I.C. § 74-106, public disclosure of the personnel records sought here can be prevented by the issuance of a protective order stipulated to by the parties.

THEREFORE, THE COURT ORDERS THE FOLLOWING:

The State shall provide to the defense the training records requested in Request 160 of *Defendant's 2<sup>nd</sup> Supplement Request for Discovery and Motion to Compel Discovery* no later than July 14, 2023, unless the State demonstrates good cause for an extension of time to turn

over the requested material. Further, the parties shall provide the Court with a stipulation for a protective order and a proposed protective order for the training records.

DATED this 30<sup>th</sup> day of June 2023.

  
John C. Judge  
District Judge

CERTIFICATE OF SERVICE

I certify that copies of the ORDER ON DEFENDANT'S MOTION TO COMPEL DISCOVERY were delivered by email to:

William W. Thompson, Jr., and Ashley S. Jennings  
Latah County Prosecuting Attorney  
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on this 30 day of June 2023.

County Clerk of the Court

By:   
Deputy Clerk